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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/007,733

11/08/2001

Donald Carroll Roe

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27752

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10/19/2004

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INTELLECTUAL PROPERTY DIVISION
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EXAMINER

MULLEN, THOMAS J

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/007,733	ROE, DONALD CARROLL	
	Examiner	Art Unit	
	Thomas J. Mullen, Jr.	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☒ Claim(s) 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The amendment filed 7/16/04 has been fully considered.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a flow chart showing the steps of the method recited in claims 1-19, and the "article of commerce"/"package" recited in claim 20, must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20 as amended, it is unclear if the various process steps recited on lines 6-8 (i.e., "measuring a reflexive urination volume", "setting (a) threshold value", and "using the bladder monitor to obtain the...measurement") are, in fact, "instructions for training the child" (and thus are presented to the child or caregiver in some form as "instructions", prior to or during use of the bladder monitor), or are they simply automatically-occurring functions of the bladder monitor itself (and/or automatically-occurring functions of some other element(s)), responsive to "occurrence of the (bladder fullness objective measurement threshold) signal".

5. Claims 1-19 are allowed. Claim 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. Applicant's arguments filed 7/16/04 have been fully considered but they are not persuasive (as to the drawings).

Regarding the rejection of the claims under 35 U.S.C. 103 in view of Companion et al, it is agreed that Companion et al fails to teach or suggest the recited steps or functions of "measuring a reflexive urination volume for (a) child" and "setting a signal threshold value to correspond to a bladder volume that is less than the reflexive urination volume", as now recited in claims 1, 12 and 20.

Regarding applicant's drawings, all that is shown in Figs. 1-2 (as described in the Brief Description of the Drawings--page 2 of the specification) are "general relationships" (i.e., X-Y plots) between bladder volume and either "bladder sensation" or "bladder measurement". Thus, the drawings utterly fail to show "every feature of the invention specified in the claims", as set forth in 37 CFR 1.83(a). Claims 1-19 herein recite methods reciting various steps to be carried out; at the very least, a flow chart depicting the steps of the method should be provided in the drawings. Claim 20 recites an apparatus ("article of commerce comprising a package") composed of a combination of elements ("bladder monitor" and "instructions"), and is considered that the combination of elements should be shown at least in block diagram form.

Regarding applicant's argument that the sentence in MPEP 608.02(d)--referring to "(a)ny structural detail" (emphasis original)--implies that method claims are exempt from the Rule 83(a) requirement, is not agreed with because (i) it is not apparent that this sentence in the MPEP necessarily limits the scope of what is required by Rule 83(a) and/or the associated form paragraphs also set forth in MPEP 608.02(d), as this sentence merely refers to a 1911 court decision (which presumably does not provide an exhaustive teaching of what should be shown in the drawings vs. what need not be shown, particularly for electronic, processor-based systems or devices), and (ii) it should be apparent that, in general, method claims reciting a series of steps typically require one or more physical elements, i.e. some type of "apparatus", to carry out the steps of the method--i.e., it is considered that such apparatus and/or its operative physical elements which are required to carry out the steps of a method (and are thus implied by the recited steps) would fall under Rule 83(a), and thus should generally be shown in the drawings. Note also that applicant's method claims 1-19 in fact do recite various physical elements (explicitly or implicitly), including a "bladder monitor" which is applied in a "wearable manner" to a child's body (thereby clearly implying some sort of specific structure associated with the bladder monitor for enabling it to be "worn" by the child), and various "alarms" which are clearly

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structural devices, and apparently are operational elements of the bladder monitor (in this regard, the examiner never stated that the claims positively recited a "means" for providing alarms per se--but such "means" are clearly an implicit recitation in claim 8). Applicant's characterization of the bladder monitor as a "conventional feature" (referring to the language of Rule 83(a)) is not understood, since the bladder monitor clearly is what is used--alone or in operative communication with other elements--to carry out the (presumably) "non-conventional" method being recited. Nevertheless, as stated above, a flow chart depicting the steps of the method would be considered sufficient to show the invention recited in the method claims (1-19).

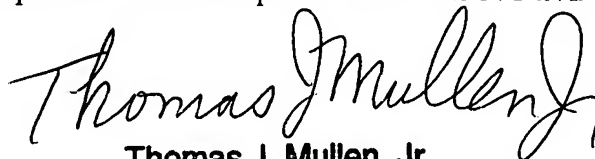
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mullen, Jr. whose telephone number is 571-272-2965. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.



Thomas J. Mullen, Jr.
Primary Examiner
Art Unit 2632